



No. *H* of 1993.

National Cultural Committee (Interim Arrangements) Act 1993.

Certified on : *21.4.93*

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

National Cultural Committee (Interim Arrangements) Act 1993.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

AN ACT

entitled

National Cultural Committee (Interim Arrangements) Act 1993,

Being an Act to establish a National Cultural Committee and to define its functions and powers, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

PART I. - PRELIMINARY.

1. INTERPRETATION.

In this Act, unless the contrary intention appears -

- "art" includes creative and interpretative expression through theatre, literature, music, film and crafts;
- "Chairman" means the Chairman of the Committee appointed under Section 8;
- "Chief Executive Officer" means the Chief Executive Officer of the Committee appointed under Section 21;
- "Committee" means the National Cultural Committee appointed under Section 2;
- "cultural development programme" means a programme for the preservation, development and promotion of all positive aspects of the indigenous lifestyle of the peoples of Papua New Guinea as well as their cultural heritage and values;
- "cultural entertainment" means cultural forms of expression in song, dance and drama as interpretations of both traditional and contemporary works;
- "cultural heritage" means all aspects of indigenous cultures both tangible and intangible;
- "Deputy Chairman" means the Deputy Chairman of the Committee appointed under Section 8;
- "exhibitions" means displays of works of art which includes paintings, artifacts, crafts or other artistic creations;
- "former Corporation" means the Tourism Development Corporation established under the *Tourism Development Corporation Act 1990*, as repealed by the *Tourism Promotion Authority Act 1993*;
- "member" means a member of the Committee;
- "Sub-Committee" means a Sub-Committee established under Section 15;
- "this Act" includes the Regulations.

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PART II. - CULTURAL COMMITTEE.

2. ESTABLISHMENT OF THE NATIONAL CULTURAL COMMITTEE.

A body to be known as the National Cultural Committee is hereby established.

3. INCORPORATION OF THE COMMITTEE.

(1) The Committee is -

- (a) a body corporate with perpetual succession; and
- (b) may acquire, hold and dispose of property; and
- (c) may sue and be sued in its corporate name.

(2) All courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Committee affixed to a document and shall presume that it was duly affixed.

4. FUNCTIONS OF THE COMMITTEE.

(i) The functions of the Committee are -

(a) to perform the cultural functions of the former Corporation and in this connection -

- (i) to take measures to protect the cultural rights and identity of individual ethnic groups; and
- (ii) to organize cultural awareness campaigns, demonstrations, exhibitions and cultural entertainment within and outside Papua New Guinea; and
- (iii) to provide effective support towards the conservation, preservation and promotion of cultural heritage as an obligation to maintaining national identity; and
- (iv) to provide advisory services for Provincial Governments and small scale cultural initiatives; and
- (v) to provide feasibility study services, financial assistance and operational support services to small scale cultural initiatives; and

(b) to furnish to the National Executive Council within three months of the date of coming into operation of this Act a Report detailing recommendations as to the most appropriate method of organizing and developing cultural matters at a national level, and in this connection -

- (i) to examine the need for a national cultural organization to oversee the individual cultural bodies; and
- (ii) to examine the nature and effectiveness of services provided for cultural bodies by the former Corporation; and
- (iii) to examine the needs and aspirations of those cultural bodies; and
- (iv) to identify the appropriate nature and level of involvement by the National Government in cultural matters, including an assessment of costs and benefits, and appropriate policy objectives; and
- (v) to identify methods whereby cultural bodies can become self-managing and self-funding; and

(c) such other functions as are given to it by this Act or any other law.

(2) In implementing its functions under Subsection (1)(b), the Committee shall consult with -

- (a) cultural bodies; and
- (b) the Permanent Parliamentary Committee on Culture and Tourism Development in Papua New Guinea; and

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- (c) the National Research Institute; and
- (d) the National Museum and Art Gallery; and
- (e) educational institutions; and
- (f) such other persons as it considers relevant,

and may examine the organization at national level of cultural matters in other comparable countries.

5. POWERS OF THE COMMITTEE.

The Committee has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

6. POLICY DIRECTIONS.

The Committee shall give effect to any directions as to the overall culture policy or policies on the development and promotion of culture given to the Committee by the Minister or the National Executive Council.

PART III. - MEMBERSHIP OF THE COMMITTEE, ETC.,

7. MEMBERSHIP OF THE COMMITTEE.

- (1) The Committee shall consist of not more than 12 members as follows:-
- (a) the Departmental Head of the Department of the Prime Minister and National Executive Council or his nominee, *ex officio*; and
 - (b) the Departmental Head of the Department of Personnel Management or his nominee, *ex officio*; and
 - (c) the Director of the National Museum and Art Gallery or his nominee, *ex officio*; and
 - (d) the Director of the National Research Institute or his nominee, *ex officio*; and
 - (e) the Chief Executive Officer of the Tourism Promotion Authority established by the *Tourism Promotion Authority Act 1993* or his nominee, *ex officio*; and
 - (f) the Dean of the Faculty of Creative Arts of the University of Papua New Guinea or his nominee, *ex officio*; and
 - (g) the Chief Executive Officer, *ex officio*; and
 - (h) a representative of the Permanent Parliamentary Committee on Culture and Tourism Development in Papua New Guinea; and
 - (i) not more than four persons with relevant expertise in cultural matters.

- (2) The members referred to in Subsection (1)(h) and (i) -
- (a) shall be appointed by the Minister by notice in the National Gazette; and
 - (b) shall be appointed for a period of one year; and
 - (c) are eligible for re-appointment.

(3) A nominee referred to in Subsection (1) shall be of a level not less than Assistant Secretary in the National Public Service or its equivalent.

(4) The members, other than the members under Subsection (1)(d) and (e) hold office on such terms and conditions as are determined under the *Boards (Fees and Allowances) Act* (Chapter 299).

8. CHAIRMAN AND DEPUTY CHAIRMAN.

- (1) The member holding office -
- (a) under Section 7(1)(a) - shall be the Chairman of the Committee; and
 - (b) under Section 7(1)(d) - shall be the Deputy Chairman of the Committee.

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9. LEAVE OF ABSENCE OF MEMBERS.

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

10. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign his office by writing signed by him and delivered to the Minister.

(2) If a member -

(a) dies; or

(b) becomes permanently incapable of performing his duties; or

(c) resigns his office in accordance with Subsection (1); or

(d) is absent, except with the written consent of the Minister, from three consecutive meetings of the Committee; or

(e) fails to comply with Section 14; or

(f) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or

(g) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death,

the Minister shall terminate his appointment.

(3) The Minister, may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(5) Where the member referred to in Subsection (3), does not reply in accordance with Subsection (4), his appointment is terminated.

11. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Committee is not invalidated by reason of a vacancy in the membership of the Committee.

12. CALLING OF MEETINGS.

(1) The Committee shall meet as often as the business of the Committee requires, and at such times and places as the Committee determines, or as the Chairman, or in his absence, the Deputy Chairman, directs, but in any event shall meet not less frequently than once in every two weeks.

(2) Where he receives a request to do so by the Minister or by not less than two members, the Chairman, or in his absence the Deputy Chairman, shall convene a meeting of the Committee within 14 days.

(3) For the purposes of Subsection (1), the Chairman or the Deputy Chairman shall give, to every member, at least seven days' notice of the meeting.

13. MEETINGS OF THE COMMITTEE.

(1) At a meeting of the Committee -

(a) seven members constitute a quorum; and

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- (b) the Chairman, or in his absence the Deputy Chairman, shall preside, but, if both the Chairman and Deputy Chairman are absent, the members present shall appoint a Chairman for that meeting from among their own number; and
- (c) matters arising shall be decided by a majority of the votes of the members present and voting; and
- (d) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote.

(2) The Committee shall cause minutes of its meetings to be recorded and kept.

(3) Subject to this Act, the procedures of the Committee are as determined by the Committee.

14. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Committee otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of this interest at a meeting of the Committee.

(2) A disclosure under Subsection (1), shall be recorded in the minutes of the Committee and the member -

- (a) shall not take part, after the disclosure, in any deliberation or decision of the Committee in relation to the matter; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Committee for any such deliberation or decision.

15. SUB-COMMITTEES.

(1) The Committee may establish such Sub-Committees as the Committee considers necessary for the purposes of the Committee.

(2) The Committee may -

- (a) appoint persons (including members of the Committee) to be members of the Sub-Committees; and
- (b) prescribe the powers, functions and procedures of the Sub-Committees.

(3) A member of a Sub-Committee is subject to the same terms and conditions as a member of the Committee but not both as member of the Committee and of a Sub-Committee.

16. DELEGATION.

The Committee may, by written instrument, delegate to any person all or any of its functions and powers under this Act (except this power of delegation).

17. REPORTS.

(1) The Committee shall, by the fifth day of each month, furnish to the Minister a report on the progress and performance of the Committee in relation to the previous month.

(2) A report on the progress and performance of the Committee shall be prepared by the Minister once in each year and forwarded to the Speaker for presentation to the Parliament.

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PART IV. CULTURAL CENTRES AND CULTURAL INSTITUTIONS.

18. INTERPRETATION.

In this Part, unless the contrary intention appears -

"cultural centre" means a cultural centre continued in establishment, established or recognized under this Part;

"cultural institution" means a cultural institution continued in establishment, established or recognized under this Part.

19. CONTINUANCE OF ESTABLISHMENT OF CULTURAL INSTITUTIONS, ETC.,

(1) The following cultural institutions or cultural centres shall continue in establishment:-

(a) the National Theatre Company;

(b) the Raun Raun Theatre;

(c) any other cultural institutions (other than the National Arts School and the National Museum and Art Gallery) and cultural centres that -

- (i) were continued in establishment by the *Tourism Development Corporation Act 1990* (repealed); and
- (ii) were established by a person, group or organization, other than the former Corporation, but recognized by the former Corporation under the *Tourism Development Corporation Act 1990* (repealed) as a cultural institution or cultural centre; and
- (iii) are still in establishment at the date of commencement of this Act.

(2) A cultural institution and cultural centre referred to in Subsection (1), shall continue to perform the functions prescribed for it, directly or by reference, under the *Tourism Development Corporation Act 1990* (repealed).

20. ADMINISTRATION AND ESTABLISHMENT OF CULTURAL INSTITUTIONS.

(1) The Committee shall manage, maintain and administer all cultural institutions and cultural centres, other than the cultural institutions and cultural centres referred to in Subsection (2)(b) and Section 19(1)(c).

(2) The Committee may -

(a) establish and administer such -

(i) cultural institutions; and

(ii) cultural centres,

as, in the opinion of the Committee, are necessary for the purposes of the Committee; and

(b) recognize and assist cultural institutions and cultural centres established by any person, group or organization, other than the Committee.

PART V. - STAFF OF THE COMMITTEE.

21. CHIEF EXECUTIVE OFFICER.

(1) There shall be a Chief Executive Officer of the Committee who shall be appointed by the Minister by notice in the National Gazette.

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- (2) The Chief Executive Officer is -
(a) the chief executive of the Committee; and
(b) the head of the staff of the Committee.

22. FUNCTIONS OF THE CHIEF EXECUTIVE OFFICER.

- (1) The Chief Executive Officer shall -
(a) manage the staff in accordance with the policy and directions of the Committee; and
(b) advise the Committee on any matter concerning the Committee referred to him by the Committee.
- (2) The Chief Executive Officer -
(a) shall carry out and perform the duties required of him under this Act and his contract of employment; and
(b) has such other functions as the Committee may, from time to time, determine.

23. OFFICERS.

(1) Subject to Subsection (3), the Chief Executive Officer may appoint to be officers and employees of the Committee such persons as he considers necessary for the purpose of giving effect to this Act.

(2) The Chief Executive Officer and the officers appointed under Subsection (1), constitute the staff of the Committee.

(3) The Departmental Head of the Department responsible for finance and planning matters may appoint an officer or officers to be responsible for the control of financial matters of the Committee, and such officer or officers shall be answerable to that Departmental Head.

24. CONTRACTS OF EMPLOYMENT.

(1) The Chief Executive Officer, and such of the officers and employees of the Committee as the Committee may approve, shall be employed under, and, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, hold office in accordance with the terms and conditions of, written contracts of employment.

(2) A contract of employment shall be executed by the Committee and by the Chief Executive Officer or an officer or employee.

25. CONDITIONS OF EMPLOYMENT OF OTHER OFFICERS.

Subject to the *Salaries and Conditions Monitoring Committee Act 1988*, an officer or employee to whom Section 24 does not apply, holds office on such terms and conditions as the Committee determines.

26. PUBLIC SERVICE RIGHTS.

Where an officer or employee of the Public Service is appointed to be the Chief Executive Officer or an officer or employee of the Committee, his service on the staff of the Committee shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of -

- (a) leave of absence on grounds of illness; and
(b) furlough or pay instead of furlough (including pay to dependents on the death of the officer).

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27. CONSULTANTS.

The Committee may, from time to time -

- (a) after consultation with -
 - (i) the Minister; and
 - (ii) the Chief Executive Officer; and
 - (b) within the limit of funds lawfully available for the purpose; and
 - (c) on such terms and conditions as are fixed by the Committee,
- employ such consultants as, in the opinion of the Committee, are necessary for the purposes of the Committee.

PART VI. - FINANCES OF THE COMMITTEE.

28. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT*.

(1) Part VIII of the *Public Finances (Management) Act 1986* applies to and in relation to the Committee subject to modifications specified in the Schedule to this Act.

(2) The Committee is a trading enterprise for the purposes of Section 61 of the *Public Finances (Management) Act 1986*.

29. MONEYS OF THE COMMITTEE GENERALLY.

(1) The Committee shall open and maintain such bank accounts, with such bank or banks as the Minister approves for the purpose of the Committee, and shall pay into them -

- (a) all moneys appropriated by Act for the purposes of carrying out or giving effect to this Act; and
- (b) all moneys received by the Committee for the sale, leasing or hire of property; and
- (c) all other moneys received by the Committee in the exercise and performances of its powers, functions and duties.

(2) Out of the moneys standing to the credit of the accounts of the Committee referred to in Subsection (1), the Committee shall pay -

- (a) all moneys payable by it in repayment of advances or loans under this Act; and
- (b) the costs, charges and expenses incurred by the Committee in the performance of its functions under this Act; and
- (c) the costs, charges and expenses incurred by the Committee after consultation with the Minister, in establishing and maintaining cultural projects in giving effect to the functions of the Committee; and
- (d) the remuneration and allowances of the members of the Committee and of officers and employees of the Committee; and
- (e) any other payments that the Committee is authorized or required to make under this Act or any law.

(3) In respect of moneys advanced or borrowed under this or any other Act, the Committee shall maintain a separate account in respect of the moneys that are related to each such purpose, and shall cause proper entries of -

- (a) all moneys so advanced or borrowed for a particular purpose of the Committee; and
 - (b) the purpose to which the moneys have been applied,
- to be made in the account maintained in respect of that purpose.

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30. LIABLE TO TAXATION.

Income, property and operations of the Committee are subject to the provisions of the *Income Tax Act 1959*.

PART VII. - MISCELLANEOUS.

31. PROTECTION FROM PERSONAL LIABILITY.

A member of the Committee or a Sub-Committee, or an officer, employee, servant or agent of the Committee is not personally liable for any act or default of himself, or of the Committee or Sub-Committee done or omitted to be done in good faith in the course of the operations of the Committee or Sub-Committee, or for the purposes of the Committee or Sub-Committee.

32. PROOF OF CERTAIN MATTERS.

In any proceedings by or against the Committee, proof is not required, unless evidence is given to be contrary, of -

- (a) the constitution of the Committee or of a Sub-Committee; or
- (b) a resolution of the Committee or of a Sub-Committee; or
- (c) the appointment of a member of the Committee or of a Sub-Committee, an officer, employee, servant or agent of the Committee; or
- (d) the presence of a quorum at a meeting at which a determination is made or an act done by the Committee or a Sub-Committee.

33. SERVICE OF PROCESS.

Any notice, summons, writ or other process required to be served on the Committee may be served by being left at the office of the Committee or in the case of a notice, by post.

34. AUTHENTICATION OF DOCUMENTS.

Any document requiring authentication by the Committee is sufficiently authenticated without the seal of the Committee if signed by the Chief Executive Officer or the Chairman.

35. COMPENSATION.

(1) Where loss or damage is suffered by any person by reason of the exercise, by or on behalf of the Committee, of a power conferred by or under this Act, compensation for the loss or damage is payable to that person by the Committee.

(2) Subject to Subsection (3), the amount of compensation payable under Subsection (1) is as determined by the Minister.

(3) A person, aggrieved by a determination of the Minister under Subsection (2), may appeal to the National Court.

36. RECOVERY OF MONEY DUE.

Any money due to the Committee under this Act may be recovered by the Committee as a debt.

37. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed for giving effect to this Act, and, in particular for prescribing -

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- (a) the fees and charges for services rendered by the Committee; and
- (b) the establishment and maintenance of Provincial Cultural Boards, their functions, powers and procedures; and
- (c) the nature and subject of cultural promotional activities; and
- (d) the reports, returns and information to be supplied under or for the purposes of this Act; and
- (e) penalties of fines not exceeding K30,000.00 and default penalties of fines not exceeding K100.00 for offences against the regulations.

PART VIII. - TRANSITIONAL ARRANGEMENTS.

38. TRANSFER OF ASSETS, ETC., TO THE COMMITTEE.

(1) All assets held by, and obligations and liabilities (other than those relating to the staff of the former Corporation) imposed on, the former Corporation (other than those determined by the Auditor-General under Section 38(1)(b) of the *Tourism Promotion Authority Act 1993* to relate to the functions of the Tourism Promotion Authority) immediately before the coming into operation of this Act, are, on that date, transferred to the Committee.

(2) Where any property vested in the former Corporation to which Subsection (1) applies is land registered under the *Land Registration Act* (Chapter 191), the Registrar of Titles shall, without formal transfer and without fee, on application in that behalf by the Committee, enter or register the Committee in the register kept under that Act and, on entry and registration grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

39. TRANSFER OF ACCOUNTS.

All sums, immediately before the coming into operation of this Act, at credit of, and on accounts opened by the former Corporation (other than those determined by the Auditor-General under Section 38(1)(b) of the *Tourism Promotion Authority Act 1993* to relate to the functions of the Tourism Promotion Authority) are, on that coming into operation, transferred to equivalent accounts opened in the name of the Committee under the provisions of this Act or the *Public Finances (Management) Act 1986*.

40. SAVING OF CONTRACTS.

All contracts and agreements (other than, subject to Section 42, contracts of employment), entered into, made with or addressed to the former Corporation, (other than those determined by the Auditor-General under Section 38(1)(b) of the *Tourism Promotion Authority Act 1993* to relate to the functions of the Tourism Promotion Authority) are, to the extent that they were immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the former Corporation, on that coming into operation, binding on and of full force and effect against or in favour of the Committee as fully and effectively as if the Committee had been a party to them or entitled to the benefit of them.

41. STAFF.

All persons employed as officers or employees of the former Corporation immediately before the coming into operation of this Act (other than those persons to whom Section 42 of the *Tourism Promotion Authority Act 1993* applies) are, on that coming into operation, deemed to be officer or employees of the staff of the Committee, but in such offices and at such levels as are determined by the Committee.

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42. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the coming into operation of this Act, any action, arbitration or proceeding was pending or existing by, against or in favour of the Corporation (other than those determined by the Auditor-General under Section 38(1)(b) of the *Tourism Promotion Authority Act 1993* to relate to the functions of the Tourism Promotion Authority) it does not, on the coming into operation of this Act, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the Committee.

43. APPLICATION OF ACTS, ETC.

Where -

(a) any Act or subordinate enactment, other than this Act; and
(b) any document or instrument whenever made or executed, contains, a reference, express or implied, to the former Corporation that reference shall, where relevant to the functions of the Committee, on and after the coming into operation of this Act, except where the context otherwise requires, be read and construed as a reference to the Committee.

SCHEDULE .

Sec. 28

*Modifications to Part VIII of the Public Finances
(Management) Act 1986.*

Funds shall be made available to the Committee on a monthly basis as determined by the Departmental Head of the Department of Finance and Planning.

I hereby certify that the above is a fair print of the *National Cultural Committee (Interim Arrangements) Act 1993* which has been made by the National Parliament.

Clerk of the National Parliament.

I hereby certify that the *National Cultural Committee (Interim Arrangements) Act 1993* was made by the National Parliament on 17 March 1993.

Speaker of the National Parliament.

